IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
SECOND APPEAL NO. 275 OF 2007

Bhalchandra Nagesh Jahagirdar .. Appellant
v/s.
Ramraji Kacheshwar Tulshibagwale and others ..
Respondents

Mr. S.S. Kulkarni for the appellant.
Mr. S.B. Deshmukh for the respondents.

CORAM : A.M. KHANWILKAR, J.
DATED : 18TH JULY, 2007

P.C.

Heard counsel for the parties.

2. No reason to interfere in exercise of the Second Appeal Jurisdiction. The argument that the original tenant was not party to the suit for possession instituted by the respondents-plaintiffs, clearly overlooks that it is the appellant who had first asserted his right to be tenant in the suit property. The appellant proceeded to file suit before the court of competent jurisdiction for that declaration. The matter was taken in appeal right upto this court by way of writ petition. The concurrent finding recorded in those proceedings is against the appellant was not a tenant in the suit premises. Obviously, the respondents-plaintiffs have had no option but to proceed to file the present suit for eviction of the appellant by due process of law. The fact that original tenant has not been impleaded as party defendant will make no difference.

2. In fact, no fault can be found in the view taken by the appellate court, in view of the decree in favour of the respondents-plaintiffs. No substantial question of law arises for consideration. Dismissed.

(A.M. KHANWILKAR, J.)